

# UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

In Re Applications of: )

FAMILY BROADCASTING, INC. )

EB DOCKET No. 01-39 )

Order to Show Cause Why the Licenses )  
for Stations WSTX (AM) and WSTX-FM, )  
Christiansted, U.S. Virgin Islands, )  
Should Not Be Revoked )

APR 30 8 57 AM '02  
FOC-0ALJ ROD

Volume: 1  
Pages: 1 through 45  
Place: Washington, D.C.  
Date: April 23, 2002

## HERITAGE REPORTING CORPORATION

*Official Reporters*  
1220 L Street, N.W., Suite 600  
Washington, D.C. 20005-4018  
(202) 628-4888  
hrc@concentric.net

# ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In Re Applications of: )  
 )  
FAMILY BROADCASTING, INC. ) EB DOCKET No. 01-39  
 )  
Order to Show Cause Why the Licenses )  
for Stations WSTX(AM) and WSTX-FM, )  
Christiansted, U.S. Virgin Islands, )  
Should Not Be Revoked )

Room TWA-363  
Federal Communications Commission  
Washington, D.C.

Tuesday,  
April 23, 2002

The parties met, pursuant to the notice of the  
Judge or Commission, at 2:00 p.m.

BEFORE: HONORABLE RICHARD L. SIPPEL  
Chief Administrative Law Judge

APPEARANCES:

On behalf of FAMILY BROADCASTING, INC.:

LAUREN A. COLBY, Esquire  
10 East Fourth Street  
P.O. Box 113  
Frederick, MD 21701  
(301) 663-1086

DANIEL A. HUBER, Esquire  
560 N Street, S.W.  
Suite 501  
Washington, D.C. 20024

Heritage Reporting Corporation  
(202) 628-4888

On Behalf of FEDERAL COMMUNICATIONS COMMISSION:

JAMES W. SHOOK, Esquire  
KATHRYN S. BERTHOT, Esquire  
DANA E. LEAVITT, Esquire  
Federal Communications Commission  
Enforcement Bureau  
445 12th Street, SW  
Washington, D.C. 20554  
(202) 418-1420

Heritage Reporting Corporation  
(202) 628-4888

P R O C E E D I N G S

(Time 2:00 p.m.)

1  
2  
3 THE COURT: We are going to start with the first  
4 Prehearing Conference in the case of Family Broadcasting,  
5 Inc., or actually this is not the first Prehearing  
6 Conference, but this is the first Prehearing Conference the  
7 second time around.

8 MR. COLBY: Correct.

9 THE COURT: EB Docket No. EB 01-39. The main  
10 thing I want to accomplish this afternoon is to see if we  
11 can get a hearing date agreed to. Before I do that, let me  
12 take appearances on the record for us. On behalf of Family  
13 Broadcasting?

14 MR. COLBY: Lauren A. Colby and Daniel Huber.

15 THE COURT: Okay. And on behalf of the  
16 Enforcement Bureau?

17 MR. SHOOK: James Shook.

18 MS. BERTHOT: Kathy Berthot.

19 THE COURT: Okay. I had two dates in mind, if I  
20 can jump into it that quickly. The issues are set forth in  
21 the Memorandum of Opinion and Order, and Hearing Designation  
22 Order, released March 28th of this year; and it is -- I mean  
23 this is quite a list of issues. I do not know how some of  
24 those might be able to be compressed, but what I need to  
25 know first is, how long would counsel think this is going to

1 take to try? I think Family would have the burden of proof  
2 on that.

3 MR. COLBY: Your Honor, we will be -- if it is a  
4 direct case in litem.

5 THE COURT: All right.

6 MR. COLBY: We will be introducing a direct case  
7 in litem. Then, essentially, I will put the witness on the  
8 stand and say, is this your testimony. Is it true and  
9 correct? The witness presumably will testify, yes.

10 THE COURT: I have never seen it work otherwise.

11 MR. COLBY: Then, I will turn it over to Mr.  
12 Shook.

13 THE COURT: All right. But how long do we think  
14 -- and this testimony is going to be from Ms. James?

15 MR. COLBY: Barbara St. James Peterson.

16 THE COURT: She will be the -- Do you anticipate  
17 other witnesses, or witness?

18 MR. COLBY: I might have statements from the other  
19 transferees, from her brothers -- she has only brothers.  
20 She is one of four children.

21 THE COURT: Yes.

22 MR. COLBY: Three boys and one girl.

23 THE COURT: Yes.

24 MR. COLBY: I might have statements from the other  
25 transferees, but I wouldn't anticipate to call them as

1 witnesses unless they were called for cross.

2 THE COURT: Well, that could happen.

3 MR. COLBY: It could happen, and I haven't decided  
4 whether I am going to use statements or not. They are -- a  
5 couple of them are quite successful. One is the Lieutenant  
6 Governor of the Virgin Islands, and another is a physician  
7 in Buffalo. I thought about offering some testimony that,  
8 if the company needed any more money, they would ship in  
9 some. But I haven't decided about that.

10 THE COURT: Okay. Well, let me find out what Mr.  
11 Shook has in mind.

12 MR. SHOOK: Well, Your Honor, we are going to be  
13 reactive in this case. We have to see what it is that they  
14 are going to do. We have a request for documents  
15 outstanding at this point.

16 MR. COLBY: I sent you some last night.

17 MR. COLBY: We have received some of those  
18 documents. It remains to be seen what kind of case they are  
19 going to propose; that would dictate, in large part, how we  
20 intend to proceed. They have the burdens with respect to  
21 all the issues. If they don't put on much of a case,  
22 relative to some of those issues, our job could be  
23 relatively simple there. To the extent that they put on  
24 something more complex, it is going to take us awhile to  
25 cross-examine.

1           But there is also going to be the problem of the  
2 father's situation. He hasn't even been mentioned. From  
3 what Mr. Colby had to say, it is quite conceivable that his  
4 circumstances may still play a very significant role in  
5 this.

6           MR. COLBY: Well, I think that it is up to me to  
7 prove to the satisfaction of the charge, which I think I can  
8 do, that he has not been at the station since Barbara became  
9 manager, except to run a brief religious show that he runs  
10 on Sunday. Otherwise, he has had nothing to do with it, and  
11 he has put no money in. And, as you know, he has signed a  
12 document in which he renounces any indebtedness to him and  
13 signs it to the children.

14           So I will have the burden of proving, to the  
15 satisfaction of the Judge, by a preponderance of the  
16 evidence that Luz is out of there. That's my job.

17           THE COURT: Well, yes. There are all kinds of  
18 ways that I can see it, which -- You could go down that  
19 road. It is a question of at what point are you going to  
20 put on a case that could shift the burden to the Bureau? I  
21 am not -- I would like to see as strong a case come in as  
22 possible.

23           MR. COLBY: I intend to address each and every  
24 issue with testimony.

25           THE COURT: Well, I know but that is kind of --

1 that does not really tell me a lot because there could be --

2 MR. COLBY: Well --

3 THE COURT: Let me finish what I am saying.

4 Certainly, Ms. James Peterson could come in, and she could  
5 testify as to all the issues. And you would have testimony  
6 as to all the issues but I am not so sure that that would  
7 carry the day, necessarily. I am not trying to prejudge you  
8 on that but --

9 MR. COLBY: Your Honor, I appreciate your comments  
10 because that is what I intended to do. Perhaps, I need to  
11 do more. I must tell the Judge, and also opposing counsel  
12 that for the last three weeks, my office has been pretty  
13 well tied up with a television matter that is coming to an  
14 end today, as a matter of fact.

15 As a result, I haven't been able to think about  
16 this case as much as I would like. The television matter is  
17 finally coming to a conclusion with a filing of an  
18 amendment, and a couple of petitions, which will be filed  
19 tomorrow. After that, I will be able to give this case a  
20 great deal more consideration than I -- the first thing I  
21 plan to do when I finish with the television matter is to go  
22 through the discovery requests, and make sure that we  
23 respond to all of them.

24 But I haven't had a chance to think a great deal  
25 about how I might prove these issues. I am more than

1 convinced that I can satisfy you on every issue, knowing the  
2 facts as I do. But it is a matter of coming up with the  
3 evidence that will convince Your Honor.

4 THE COURT: Well, all right. I do not want to go  
5 saying beyond what I have already said but I say: If you are  
6 going to -- if you are looking for a decision, as you are,  
7 of course, looking for a decision in your client's favor,  
8 you are going to have put on a pretty strong case. Because  
9 the issues in here that have been listed by the Commission,  
10 by -- anyway, the issues that are in this new designation  
11 order are very specific and, in some ways, could be fact  
12 intensive. But this is where, again, I do not want to jump  
13 ahead.

14 MR. COLBY: That's the reason why I think I -- it  
15 is because of the issues, the nature of the issues that I  
16 think that I can address these issues successfully with  
17 testimony; and perhaps to the extent that there are  
18 questions about the fence, and things like that with  
19 photographs.

20 THE COURT: Okay. I hear you. I am not -- I am  
21 just trying to be straightforward with you at this point,  
22 and give you the concerns that are going through my mind.  
23 But you have answered my question.

24 MR. COLBY: Your Honor, one issue -- as I look at  
25 these issues, there is one issue: To determine whether the

1 transferee Barbara James Peterson, in her capacity as  
2 general manager, misrepresented facts and/or lacked candor  
3 with the Commission? I can't prove it either. Nobody can  
4 prove an either. I can't prove that in a forest that a tree  
5 didn't fall in the forest on June 1, 1896. Can't prove that  
6 -- to something that did not happen. I would think that it  
7 would be up to the Bureau, on an issue like that, to come in  
8 with some specific instance of misrepresentation, which I  
9 would then rebut.

10 THE COURT: Mr. Shook?

11 MR. SHOOK: Your Honor, we have invoked -- I don't  
12 know that much yet. If that turns out to be the case, then  
13 we would certainly search all the documents to see what, if  
14 any, statement Ms. James Peterson has made that could  
15 conceivably be viewed as untrue, based on what appears in  
16 the designation order.

17 THE COURT: Okay. All right. Well, obviously,  
18 there has been a lot of focus on this, but you might want to  
19 think -- and, again, this is not a suggestion. This is just  
20 a thought. But there are things like, something like a  
21 motion for specification, or something like that on that  
22 issue. In terms of what you are asking -- file a pleading  
23 putting the burden on the Bureau, or seeking to put the  
24 burden to come forward, and specify what it is that the  
25 misrepresentations might be.

1           As I say, these burdens, and these burdens of  
2 moving forward, these burdens of doing things can shift. I  
3 certainly am not going to preside over a case where you are  
4 forced to shoot at targets, which are not even moving  
5 targets. They are not even targets yet. So, well, I hope  
6 you will be able to work on that.

7           Let me suggest this very carefully, since neither  
8 side has really focused on these things that closely. After  
9 your TV paperwork is done, sit down with Mr. Shook, or do it  
10 by phone or something, and try to figure out how you want to  
11 proceed in this. I would like to get this case tried in  
12 July before anybody goes away, if that is doable. The  
13 problem is that I have a busy Fall, and August is not going  
14 to be good for me. In fact, I am going to be out of the  
15 country in August. What is anybody's reaction to that? Who  
16 wants to bite on that one first?

17           MR. COLBY: Your Honor, July does not give a lot  
18 of time to prepare the case.

19           THE COURT: I was hoping --

20           MR. COLBY: And August, of course, I was planning  
21 to go on vacation myself. But, of course, we could work --  
22 if we tried it in August, we could always work it around  
23 vacation, or work vacation around things.

24           THE COURT: But if I am out of the country, you do  
25 not have to -- do not expect to be in a courtroom if I am

1 out of the country. I am just not going to be here, not the  
2 whole month. But, then again, I am coming back, of course,  
3 but I have a hearing out of town the last week of August.

4 So it is going to be difficult to do it. I do not  
5 think I can do it, in fact, before sometime in the Fall, if  
6 we do not do it in July. Now that is not anybody's fault.  
7 That is just the way my calendar is. So, I leave it up to  
8 you all to discuss this between counsel, and let me know  
9 what your decision is. We will have to come back here and I  
10 guess and have another conference.

11 MR. COLBY: Well, couldn't we simply reach an  
12 agreement as to the hearing date, and then have the  
13 administrative law judge issue an order specifying dates  
14 based upon the Hearing date?

15 THE COURT: Well, I can do that. I would like to  
16 set it down for the 16th of July but, as I am hearing you  
17 say --

18 MR. COLBY: May, June --

19 THE COURT: Yes. That is two and half months by  
20 my count.

21 MR. COLBY: Well, we probably could to it. I can  
22 do it, if necessary, because we are not going to be too busy  
23 once we finish with this television matter, I don't believe.

24 THE COURT: Well, as I say, it is not -- there are  
25 a lot of things that I could think to do just reading these

1 issues. On the other hand, as I say, some of the facts may  
2 overlap so that -- again, I am not going to try to say  
3 anything more than that, but fine. Let me set a date -- let  
4 me ask Mr. Shook. Do you have anything that you want to add  
5 to this, or any input as far as dates go?

6 MR. SHOOK: The 16th of July sounds fine with me.  
7 I have not had a chance to talk to my co-counsel.

8 MS. BERTHOT: Sounds fine, as far as --

9 MR. SHOOK: All right. You have two votes here.

10 THE COURT: Well, this is not that much of a  
11 democracy but we will do what we can do with it. The --  
12 what is going to have to happen, obviously --

13 MR. SHOOK: Are you aware of the vacation that I  
14 have from the other case that we --

15 THE COURT: Right. I am very much aware of that,  
16 and that is why I am trying to get this done.

17 MR. SHOOK: That's fine.

18 THE COURT: That would have you all finished in  
19 time for that weekend. And I am thinking that should not go  
20 to more than two to three days, even in the worse case  
21 scenario, or the best case scenario, depending on how you  
22 look at it. But, on the other hand, you are raising things  
23 with respect to these other assignees purported -- who will  
24 be assignees, coming in or offering evidence with respect to  
25 financing -- financing is a -- there is virtually a

1 financial issue cited in here, set in here.

2 As I say, it depends on how far you want to take  
3 the evidence, in terms of making a strong case. If he is  
4 going to come in, and say that these are wealthy people, and  
5 they are going to stand behind this thing. That might be  
6 nice but I do not know how far that is going to get you.

7 MR. COLBY: Well, in that event, there is just no  
8 way that I am going to be able to do this in July. We are  
9 going to have to move it to September.

10 THE COURT: I do not criticize you for being  
11 realistic.

12 MR. SHOOK: That is just what I was going to say.

13 THE COURT: All right.

14 MR. SHOOK: To have a direct case done in six  
15 weeks, I don't think I can. Okay?

16 THE COURT: All right. Well, I am not going to set  
17 a date down that you are not going to be able to meet. As I  
18 say, it is going to have to reach a point. Now, I can set  
19 out some kind of procedures for this. But, if you are going  
20 to put on all of these other witnesses, then Mr. Shook and  
21 his team may want to go out and depose them.

22 I do not know how -- As I say, I do not know how  
23 seriously people are taking these evidentiary points that I  
24 am looking at but they -- these are things that have to be  
25 thought through.

1 Well, okay, I have said enough. That, obviously,  
2 is not going to work and I cannot do anything in August.  
3 September is also very -- I just have a lot of hearing work  
4 in September, too -- a Peninsula case and, Mr. Shook, you  
5 are aware of that one. It starts on the 21st.

6 MR. SHOOK: Painfully so.

7 THE COURT: Painfully so. Well, the Ninth Circuit  
8 did something.

9 MR. SHOOK: Wonderful.

10 THE COURT: Okay. But there is more than that --  
11 let me -- I have some ATF cases that I am handling in  
12 August, and September also, so I have got other work. But  
13 these are hearings that are set, and people have set their  
14 lives on this. They are going to be here, or I am going to  
15 be there. So I am kind of tight for September. October? I  
16 guess I could set a date in early October, like around the  
17 1st of October, which is a Tuesday, and then work the dates  
18 back from there.

19 MR. SHOOK: Your Honor, how long is that after the  
20 Peninsula hearing? One week --

21 THE COURT: Boy, I have things to count here.  
22 That is two weeks. The 17th is -- the Peninsula is on the  
23 17th, and the 1st comes two weeks after that, so -- No, I am  
24 sorry, I cannot do that. The Peninsula hearing starts on  
25 the 25th.

1 MR. SHOOK: That is what I thought. I will count  
2 them --

3 THE COURT: The cross-examination is on the 17th,  
4 so that won't work and the 14th of October is a holiday. I  
5 guess we could do it on the -- let me see. I want to make  
6 sure that I can commit to this. Yes, yes. We could do it  
7 on the 15th, which is a day after a holiday. But I would  
8 want to be sure that we could get that done within three  
9 days, 15th, 16th and 17th because I have something that I  
10 need to do on the 18th. Okay?

11 MR. SHOOK: I could see us having one affirmative  
12 witness, everything else will probably be cross-examination.

13 THE COURT: Yes.

14 MR. SHOOK: And/or whatever documents are  
15 disclosed to us during this period of discovery.

16 THE COURT: Okay.

17 MR. SHOOK: I see three days, though, as a  
18 realistic possibility.

19 THE COURT: Okay. Well, what do you think Mr.  
20 Colby?

21 MR. COLBY: I won't be having any affirmative  
22 witnesses. I will only be putting in a written case. So  
23 the Bureau is asking if it would be -- they would know how  
24 long it would take.

25 THE COURT: Your witnesses are going to have to

1 hang around though.

2 MR. COLBY: I don't really anticipate having a  
3 witness, other than Barbara James Peterson.

4 THE COURT: All right.

5 MR. COLBY: I think that I might have statements  
6 from others, but I hope that I would circulate them to the  
7 Bureau. Possibly, I would have stipulations with respective  
8 statements.

9 MR. SHOOK: Well, that particular -- it would be  
10 possible at this point -- I would anticipate we might not be  
11 too exercised about any statements that come from the  
12 brothers. However, if there are any statements coming from  
13 the parent, I suspect that we would definitely want to  
14 cross-examine them.

15 MR. COLBY: I definitely will not be relying upon  
16 anything that Luz James has ever said or written.

17 MR. SHOOK: That may well be. I anticipate, then,  
18 that you may have a problem, considering how these issues  
19 are framed.

20 THE COURT: Yes. I tell you -- again, I  
21 understand that these witnesses reside a long way from here  
22 and it is no -- It is not a routine thing, to call witnesses  
23 in from St. Croix but, on the hand, these issues are very  
24 important. I think, if I am reading this decision right,  
25 you came very close to losing the whole thing the first time

1 around. These issues are very -- these are issues that I  
2 had not even thought about.

3 MR. COLBY: Your Honor, the problem that I had  
4 with attempting to prove anything through the testimony of  
5 Luz James is that we have already conceded. On numerous  
6 occasion, Luz James wrote to the Commission, and supplied  
7 the Commission with information which is not accurate. So I  
8 am in the position, if I was to call him as a witness on the  
9 truth of falsity of his statements, I would be in the  
10 position of relying upon somebody who has been proven to be  
11 unreliable.

12 THE COURT: Well, okay. Let me follow the  
13 reasoning of that. The rationale of that is -- I cannot  
14 quarrel with that. However, if you do not put -- if he does  
15 not come and testify, and you are asking me to accept Ms.  
16 James Peterson's testimony that, by the way, that person who  
17 you do not believe, who you may not want to believe --  
18 again, I am doing this, to get to the point of the matter,  
19 not because I am concluding anything here.

20 But if she is going to say that I am going to have  
21 to accept from her mouth, the fact that everything is going  
22 to be under control from her; and there is going to be no  
23 control from the father, and the mother, who she has  
24 testified before -- the mother is putting -- is financially  
25 behind her, I do not know where I come out on that. Do you

1 hear what I am saying?

2 MR. COLBY: I suggest to you that such testimony  
3 would be self-serving, and inadequate to prove anything. I  
4 think I have to present you with the facts --

5 THE COURT: Yes, sir. Yes, sir.

6 MR. COLBY: -- but I don't think that I can prove  
7 facts with the testimony of Luz James.

8 THE COURT: All right.

9 MR. COLBY: Because, on so many occasions, he has  
10 said things, and written things that did not turn out to be  
11 factual. I may have to call other witnesses, other than  
12 Barbara St. James Peterson, or get statements from them, but  
13 I can't rely upon the testimony of Luz James.

14 THE COURT: All right. Well, as I said in the  
15 first proceeding, where you were so cooperative with those  
16 answers to interrogatories: I very much appreciate your  
17 candor in this. I cannot -- I do not want to say your  
18 quandary, but I see exactly where you are coming from on  
19 this, so let me leave it at this.

20 Let me make this suggestion: How about the week  
21 before? How about October 8th, which is a Tuesday. The  
22 Peninsula case is starting on a Wednesday, the 25th. Again,  
23 that case should be over in two or three days. I am right  
24 in that, or is there more there than I see?

25 MR. SHOOK: The greatest variable to how long that

1 case may take -- applying two sets of hands that don't  
2 involve us. One being Peninsula itself, and how it reacts  
3 to this Ninth Circuit Court Order; and the second being the  
4 Court of Appeals for the District of Columbia, and what it  
5 does with Peninsula's appeal.

6 THE COURT: Hmm.

7 MR. SHOOK: If those two situations more or less  
8 resolve themselves, it could well be that we won't even have  
9 a hearing.

10 THE COURT: Um-hmm. Um-hmm.

11 MR. SHOOK: On the other hand, if the Court of  
12 Appeals' decision is delayed for any reason, and/or there is  
13 an interesting turn of events relative to what follows from  
14 the Ninth Circuit decision, we could easily take a week.

15 THE COURT: Well, if we start on the 25th, now  
16 that would get you through the 11th. You have a week and a  
17 half but, then again, that does not really solve your  
18 problem in terms of getting ready for this Hearing, too.

19 MR. SHOOK: Well, it certainly means that I would  
20 have to rely a great deal more on Ms. Berthot, that she  
21 currently expects me to, I think.

22 THE COURT: It is an opportunity.

23 MR. SHOOK: One could look at it that way --

24 THE COURT: Look at the bright side. Okay. Let  
25 me stay with the 15th. I will issue an Order, and I will

1 give the dates that precede the 15th on the exchange of  
2 cases and that type of thing. I am also going to put a  
3 requirement in there, though, that within a week counsel  
4 consult with respect to the scope of evidence, to the extent  
5 that you can.

6 Also, impose -- I will give you a week in order to  
7 file pleadings, or whatever it is that you need to tighten  
8 up those specifications, such as the unspecified  
9 misrepresentations. But you have to get the ball rolling.

10 MR. COLBY: I am not sure what kind of a pleading  
11 I would file.

12 THE COURT: Well, you could file a motion for --  
13 in the nature of a bill of particulars.

14 MR. COLBY: Yes. But that still gives me the  
15 problem --

16 THE COURT: What problem?

17 MR. COLBY: The problem of, what do I put in my  
18 affirmative case? I guess I would simply put in my  
19 affirmative case that Barbara James Peterson denies that she  
20 willfully or repeatedly -- let me see what is she is  
21 supposed to have done -- denies that, in her capacity as  
22 general manager, she misrepresented facts, or lack of candor  
23 --

24 MR. SHOOK: I guess I would simply deny --

25 THE COURT: Well, I mean you could do that too. I

1 am not prejudging the merits of that allegation, so I mean  
2 you -- I am just offering some ideas. The point that I am  
3 trying to get to is, you have to be more focused on this  
4 situation -- on this case a week from now than you are  
5 today.

6 MR. SHOOK: Your Honor, may I suggest something?  
7 Ordinarily, when we have misrepresentation issues to deal  
8 with in the hearing designation order, or charging document,  
9 if you will, there is usually at least one, if not more than  
10 one statement pointed out. I don't remember reading through  
11 this whether there were any particular statements noted as  
12 having come from, or having been subscribed to by Ms. James  
13 Peterson in some fashion.

14 If there are any statements in the Order -- and I  
15 have just forgotten what they may be, it would seem to me  
16 that that is something that -- well, I would like to think  
17 at first that it was capable of resolution by motion for  
18 summary decision. But it may not be, given that you would  
19 want to observe credibility.

20 THE COURT: Being as how I already tried that and  
21 lost any way, I think we are going to have a hearing on  
22 this.

23 MR. SHOOK: Well, actually -- never mind. I was  
24 going to say that what Your Honor ruled on, the Commission  
25 did not have a problem with as far as it went.

1           THE COURT: True. I will go along with that. But  
2 I did read -- there are things in one or two places --  
3 however, in the memorandum at HDO, where they do get into  
4 some of the questions of her testimony and, in conjunction  
5 perhaps, with some of my findings. I am not going to ask  
6 you to parse it through here, nor am I. But, again, I am  
7 hoping that at this telephone conference next week, these  
8 things can get flushed out.

9           MR. SHOOK: That may be that that is all there is,  
10 in terms of what the Commission saw in there that raises a  
11 question in their collective minds regarding her  
12 creditability. And that is something that, unfortunately,  
13 may have to be dealt with by Ms. James Peterson testifying  
14 in person; and then Your Honor, and ultimately the  
15 Commission, perhaps, assessing her credibility --

16           THE COURT: Yes.

17           MS. SHOOK: -- on cross-examination.

18           THE COURT: That may be the long and short of it.  
19 I want to ask one other procedural question that is in my  
20 mind and that is, has there been an inspection from our last  
21 proceeding, since we wrapped --

22           MR. SHOOK: I believe not.

23           THE COURT: Has the Bureau given any thought to  
24 that?

25           MR. SHOOK: As far as I know, both stations are

1 operating under special temporary authorizations at this  
2 point.

3 MR. COLBY: That's right.

4 MR. SHOOK: So long as that is the case, the only  
5 things that I can think of that might be the subject --  
6 Well, there might be several things subject to an  
7 inspection. One would be the EAS.

8 THE COURT: Fence, fencing?

9 MR. SHOOK: The fence would be a second; the  
10 public file would be a third. But, in terms of the location  
11 of the antenna, and the type of antenna, the power, that is  
12 all subject to the STA.

13 THE COURT: All right. Let me just leave it with  
14 you this way then. If you are going to go in and inspect,  
15 or if that -- if you talk that over with your inspection  
16 people, the thing to do is get it started, get it done as  
17 quickly as possible so that the results are available for  
18 the Hearing.

19 MR. SHOOK: Well, now we are in October, so the  
20 urgency is kind of slipping away.

21 MR. COLBY: Let me point out, Your Honor, that  
22 when the last time that Barbara James Peterson came here --  
23 in fact, you were present.

24 THE COURT: Yes, sir.

25 MR. COLBY: She had the paper receipts from the

1 EAS machine, showing that the EAS machine was working again.  
2 She had the actual -- the machine, every time it conducts a  
3 test, either sending or receiving, it spits out a little  
4 piece of paper with the time and everything on it. She had  
5 those with her at the deposition, if you recall.

6 THE COURT: Yes.

7 MR. COLBY: As to the fence, I would propose to  
8 put in, as an affirmative exhibit, a picture of the fence,  
9 demonstrating that the fence is in good shape. Then the  
10 last time that Barbara James Peterson was here, it is my  
11 recollection, but I may be wrong about this, but I think she  
12 also brought with her a copy of the entire public file,  
13 which had been reconstructed. I know that at the  
14 deposition, I introduced as an exhibit a coverage map, which  
15 we had prepared to satisfy the requirement that there must  
16 always be a coverage map in the public file.

17 THE COURT: Yes.

18 MR. COLBY: I think that I also had -- I am not  
19 sure about this, but I think I had most of the copies of  
20 most of the file also at that time of the depositions.

21 THE COURT: Well, as I say, this is -- I am not  
22 going to require, or order that there be an inspection  
23 conducted of the premises but the ultimate issue is whether  
24 or not it is in the public interest to transfer the control  
25 of this station to Ms. James Peterson? She has been

1 operating as general manager since --

2 MR. COLBY: March 2001 --

3 THE COURT: -- 1998.

4 MR. COLBY: March 2001.

5 THE COURT: Oh, no. That is since she has been  
6 president. She has been general manager since 1998.

7 MR. COLBY: But, as I pointed out, though, in some  
8 of the pleadings I filed, in most of the -- in many of the  
9 change -- I've represented change stations. The general  
10 manager has nothing to do with complying with FCC  
11 regulations. His job is to get out there, and sell, and  
12 schedule the programming, and do things like that.

13 One of the chains that I have represented for  
14 about thirty years, and still represent, the owner of the  
15 chain, himself, and all of the relationships with me --  
16 talks with me on the telephone, writes letters to me,  
17 communicates with me by e-mail about FCC compliance.

18 The managers have nothing to do with that. Their  
19 job is to sell time, and manage the employees. So it is not  
20 a common thing for a general manager to be involved in FCC  
21 compliance.

22 THE COURT: Well, this situation -- your client's  
23 situation in St. Croix is not a common thing. This case has  
24 a history to it.

25 MR. COLBY: Well, they are --

1 THE COURT: I am the second judge on this -- this  
2 is the second trial of the second judge in this case.

3 MR. COLBY: Well, that is not quite true Your  
4 Honor.

5 THE COURT: Oh, yes, it is.

6 MR. COLBY: No. The first --

7 THE COURT: Judge Luton had this case --

8 MR. COLBY: Judge Luton had only one issue before  
9 him. At that time, about ten years ago or whatever it was,  
10 the Commission designated a large number of license renewals  
11 for hearing because the stations were off the air. The only  
12 issue before Judge Luton, the single issue that he had  
13 before him was, was the station on the air or not?

14 By the time that the hearing came around, the  
15 station was back on the air, so that issue was automatically  
16 satisfied. There were no violations specified in the  
17 earlier hearing before Judge Luton, except the violation of  
18 the rule that requires a station to be on the air.

19 I noticed in Your Honor's decision, I think Your  
20 Honor made a mistake in that respect. You were under a  
21 misimpression because factually it is not true that there  
22 was any prior history of hearings involving violations. The  
23 only rule that was involved in that prior hearing was the  
24 rule that required you to be on the air.

25 THE COURT: Well, okay. I --

1 MR. SHOOK: It is just, though, that when the  
2 station came back on the air, one of the implied truths was  
3 that that station was going to be back on the air with its  
4 license facilities; and that turns out not to have been the  
5 case.

6 MR. COLBY: No. I absolutely don't -- you are  
7 perfectly correct about that. I am not denying that for one  
8 minute. The only thing that I am objecting to is the  
9 characterization that there was more than one hearing on the  
10 kind of issues that we have. There wasn't.

11 THE COURT: Well, let me just read you from the --  
12 this is footnote 37 in the memorandum opinion, and order  
13 that the ALJ's finding, as to the earlier proceeding,  
14 however, is inextricably related to issues as to Ms. James  
15 Peterson's complicity in and knowledge of matters that the  
16 family claims were solely the responsibility of conceded  
17 wrongdoer Gerard Luz James.

18 MR. COLBY: Yes. If she had knowledge or  
19 complicity, that is true.

20 THE COURT: Well, that is my point.

21 MR. COLBY: But there is not any evidence, Your  
22 Honor --

23 THE COURT: That is exactly my point.

24 MR. COLBY: -- that there was any such knowledge or  
25 complicity.

1 THE COURT: Well, my point is that when you start  
2 back with that proceeding, in terms of actual or implied  
3 knowledge, and you work it through 1998, when she becomes  
4 the general manager and then this is all part of a family  
5 operation; and then you bring that forward to when she  
6 becomes president, after there is a designation order for a  
7 hearing, or after it has been brought to their attention  
8 that there is a problem with respect to Mr. Luz James'  
9 credibility, it starts to take on the proportion of a kind  
10 of a package deal here -

11 MR. COLBY: Is it your impression, Your Honor,  
12 that she was at the radio station prior to 1998? Because,  
13 if you are under that impression, you are incorrect.

14 THE COURT: Well, in 1998, she became the general  
15 manager.

16 MR. COLBY: That's right. In 1998, she became the  
17 general manager. Prior to that time, she was nowhere  
18 around.

19 THE COURT: Well, that does not mean that she did  
20 not have information. This is a family. This is not some --

21 MR. COLBY: But she was not living in the Virgin  
22 Islands, if you recall.

23 THE COURT: All right.

24 MR. COLBY: Maybe this is something I need to  
25 address specifically. You may be under some misimpression

1 as to the facts.

2 THE COURT: Well, look, I am not going to,  
3 obviously, get into a speculative endeavor here, nor would I  
4 get into a speculative endeavor with respect to the  
5 findings. I am only going to go with what is in the record.  
6 What I am saying is, is that we are sitting here today, in  
7 terms of trying to -- about how to get ready for a hearing,  
8 and I am trying to think of all the things of how I --  
9 what is the big picture in this case? That is all I am  
10 thinking of is the big-picture look of this case.

11 It seems to me to just discard the proceeding  
12 before Judge Luton as being irrelevant. I don't think --  
13 even the Commission writing this footnote did not see it  
14 that way. But the relevance of it would be -- the weight of  
15 it versus the relevance of it are two entirely different  
16 things.

17 MR. COLBY: I don't see that it is relevant at all  
18 because Ms. Barbara James Peterson was not present at the  
19 radio station at the time when that proceeding took place.  
20 She was raising children; she was a housewife.

21 THE COURT: Okay. Well, I am not going to -- The  
22 document, the footnote speaks for itself.

23 MR. COLBY: I going to address with evidence,  
24 which I will do.

25 THE COURT: Well, you may have to do that. You do

1 have the burden of proof by a preponderance of the evidence.  
2 I know what -- your theory, your strategy seems to be to try  
3 to compartmentalize things as much as you possibly can.

4 MR. COLBY: Well, because they were --

5 THE COURT: Maybe you can do it.

6 MR. COLBY: Because they were compartmentalized.

7 THE COURT: All right.

8 MR. COLBY: Ms. James is a woman. She had  
9 children. She was a housewife raising the children until  
10 she came back in 1998 to manage the radio station. I don't  
11 see how a woman at home with children, cooking for a husband  
12 and doing the things that women at home with children do can  
13 be complicit in the operation of a radio station a thousand  
14 miles away.

15 THE COURT: Well, I am not going to go down that  
16 road with you. Look, we are doing fine. All right. We are  
17 doing fine. You understand where I am coming from. We are  
18 not making any findings here. We are not doing anything. I  
19 am just trying to get, as they say, a ballpark picture of  
20 the scope of this case. We are going to hear the case,  
21 starting on the 15th of October, which is a Tuesday.

22 You are going to have lots of time for discovery.  
23 I will give you the dates -- I do not have to set them here,  
24 but I will give you the preceding dates, and the notice for  
25 cross-examination, and the exchange of cases. You made it

1 clear how you are going to proceed. It is going to be --  
2 now, but I am going to set -- I am going to require you to  
3 consult with one another next week on the scope of the  
4 evidence, to the extent that you can.

5 I think that in 30 days, I am going to require  
6 that there be some kind of a status report. It does not  
7 have to be detailed. But, in terms of -- that you have  
8 actually consulted with one another, and that the best that  
9 you can see right now -- that you can get some kind of a  
10 general description of the scope of the preparation of this  
11 case.

12 I guess what I am really trying to get at too, Mr.  
13 Shook, is whether or not you are going to need depositions.  
14 Are these -- is the doctor, and lieutenant governor and all  
15 these people, are they going to be serious witnesses?

16 MR. COLBY: Your Honor, it is just an idea that I  
17 had and when --

18 THE COURT: I appreciate that.

19 MR. COLBY: -- you questioned whether there would  
20 be other witnesses, I said they were the only other ones  
21 that I could think of.

22 THE COURT: All right.

23 MR. COLBY: I don't know whether I need to produce  
24 testimony from them or not because I think that I will be  
25 able to prove that since the last hearing, the station has

1 not required any further financial injections. I will find  
2 out about that, and I will find out what the facts are; and  
3 then I will decide whether or not I need to bring in the  
4 doctor, and the lieutenant governor.

5 THE COURT: Well, I do not want to beat a dead  
6 horse now but there was no financial issue in the case at  
7 that point. There really is a financial issue in here now.  
8 Not the traditional kind maybe but it is in one of these  
9 subsets that the --

10 MR. COLBY: The financial issue requires a very,  
11 very strict standard, and I do not read these issues as  
12 requiring proof that would have to be proven under an ultra  
13 vision standard.

14 THE COURT: Well, okay.

15 MR. COLBY: Ultra vision is a -- ultra vision  
16 never applied to existing stations anyway.

17 MR. SHOOK: I mean this case really breaks down  
18 more in the Petroleum vs. Nasby mode in the sense of trying  
19 to determine -- or trying to satisfy Your Honor, and  
20 ultimately the Commission, whether or not Mr. Luz James is  
21 out of the picture completely. That could be conceivably a  
22 very difficult thing to do. We do not have any burdens  
23 along those lines; and, frankly, if it is our opinion that  
24 the family does not meet those burdens, we will argue that  
25 point vociferously,

1 THE COURT: Sure.

2 MR. SHOOK: The second aspect is: Whether or not  
3 Ms. James-Peterson is complicit in any of the wrongdoing  
4 that the Commission has already determined took place? That  
5 is something that we have explored, at least to some extent,  
6 previously in the deposition of Ms. James-Peterson; and I  
7 anticipate would explore further through the document  
8 request that we already have -- perhaps, some  
9 interrogatories, perhaps a station inspection.

10 I cannot say right now whether there will be  
11 depositions simply because I do not know whether or not the  
12 Bureau budget will allow for it. We may just have to live  
13 with what we can come up with by a document request,  
14 interrogatories and a station inspection.

15 THE COURT: Wow, the budget is that tight?

16 MR. SHOOK: Your Honor, we had to pull teeth to  
17 get money for Peninsula. If we have to pull teeth to get  
18 money for a case where we have the burden of proof, I can  
19 only image how much more difficult it will be when we do not  
20 have any burdens.

21 THE COURT: Well, that --

22 MR. SHOOK: I am not immediately involved in that  
23 problem, but I mean to say that, if a case is -- if you have  
24 a critical witness, and the critical witness is going to  
25 define which way the case goes and you don't have that

1 witness, you don't have full and complete discovery of that  
2 witness whatever it takes, that is a tough way to work -- to  
3 walk into court. You are taking a chance --

4 MR. SHOOK: Your Honor, this isn't going to be the  
5 first hearing where we walk in with one hand tied behind our  
6 backs.

7 THE COURT: Well, that is -- I can only just say  
8 that that is very unfortunate because, to the extent that  
9 there is a lot of public interest in these issues, that is  
10 the bottom line. That is the bottom line. Is this record  
11 going to accurately reflect what the situation really is?

12 All right. You have a request in I think, Mr  
13 Shook, for some -- Is it this case or is -- for some  
14 additional information? Yes, you did. The Enforcement  
15 Bureau's second request for production of documents, and you  
16 had something else also, didn't you.

17 MR. SHOOK: Yes. Information that we had from the  
18 Mass -- well, now the Media Bureau.

19 THE COURT: I went through that yesterday, the  
20 Media Bureau information --

21 MR. SHOOK: I received some things on the fax --

22 MR. COLBY: I went over the memo electronically and  
23 we had made a mathematical error in the application for  
24 which I will take some responsibility, dividing 93 by 4  
25 incorrectly. I will fix that, and we also supplied an

1 agreement whereby Luz and his wife Asta had a -- the subject  
2 FCC consent assigned -- are transferring the stock to their  
3 children; and also assigned any indebtedness owing to them  
4 over to the children.

5 MR. SHOOK: Yes.

6 MR. COLBY: I exchanged all that stuff yesterday.

7 MR. SHOOK: I saw it. It came in my fax machine  
8 too.

9 (Multiple voices)

10 MR. COLBY: but not yet reviewed because of this  
11 television matter, but I will be doing it tomorrow.

12 THE COURT: Thank you. Okay. Mr. Shook?

13 MR. SHOOK: Well, the agreement that Mr. and Mrs.  
14 James signed appears to be, on its face, fairly complete.  
15 The amendment, which now, I guess -- no, there is only seven  
16 percent of family stock that is not owned by family members,  
17 still does not identify who those people are, and what the  
18 nature of their interest is?

19 MR. COLBY: No. Because -- I believe that is  
20 because --

21 THE COURT: Let him finish, Mr. Colby.

22 MR. SHOOK: I believe that is part of what we had  
23 asked for -- was the information as to who those people  
24 were, and what they had?

25 MR. COLBY: If we knew, we would tell you. But

1 Barbara James Peterson does not know, and she cannot find  
2 any papers in her father's office, or in his files, that  
3 show. He has made the statement, which I do not necessarily  
4 credit, that there were some 40 people, friends of his who  
5 bought individual tiny shares. I do not know whether that  
6 is true or not, neither does Ms. Peterson.

7 But it would not be fair to those people, who  
8 bought shares, not to honor that ownership. In other words,  
9 it would be a simple matter for me to transfer this to a  
10 different corporation which did not have the problem, which  
11 did not have that seven percent outstanding. But it would  
12 not be the right thing to do because, to the extent that  
13 there are any people out there who think they have a share  
14 of stock in this company, we should, Barbara James Peterson  
15 and her siblings should honor the people who think they have  
16 those shares.

17 Now, if she is trying to find out who these people  
18 are but --

19 MR. SHOOK: I will accept that for now that she is  
20 trying to find out. All that I was trying to point out was  
21 that that information was not provided.

22 MR. COLBY: No. But we did provide -- the reason  
23 why we could not provide it. It was not a matter of  
24 resisting the discovery request. We would love to provide  
25 you with that information.

1 THE COURT: Seven percent interest is a very -- so  
2 much for a minority interest.

3 MR. COLBY: Tiny shares apparently, sold to friends  
4 apparently years ago. That is all we could find out.

5 THE COURT: Do they know how much these people  
6 paid for the stock?

7 MR. COLBY: Well, in one case, I think we might.  
8 I will try to find out about that one case. Barbara did  
9 mention one case that she relayed to me. There was one  
10 person she found.

11 THE COURT: As I was thinking, why couldn't -- If  
12 it was not -- if that could be determined with some degree  
13 of accuracy, then they could set up some kind of a trust  
14 fund for these people to reimburse them if and when they are  
15 found. Set it up with a bank trustee, and then reorganize  
16 it.

17 MR. COLBY: That would probably require quite a  
18 bit of money to be set aside --

19 THE COURT: Well, that is why I am asking how  
20 much? I mean, how much are we talking about? Are we  
21 talking about --

22 MR. COLBY: We really -- I know we have tried to  
23 find out. I know that Barbara has tried, but we have not  
24 been able to find out. Their father kept no records.  
25 People supposedly do have shares, certificates. But, with

1 one exception, she has not been able to locate anybody.

2 THE COURT: She has located one person.

3 MR. COLBY: One person, and I will try to get the  
4 name of that person. I will get it from Mr. Shook, but it  
5 won't be much help because it is just one out of quite a  
6 few.

7 THE COURT: Well let me ask you a question again.  
8 Does she have any idea, does he have any idea how much these  
9 people paid on a proportional basis, on a per share basis,  
10 or on a --

11 MR. COLBY: No. She does not. But I will keep  
12 trying to find out. I have asked Luz James, and Luz James  
13 just says he doesn't remember. But that is not a  
14 satisfactory answer.

15 THE COURT: Well, okay. I am not too happy to  
16 hear it -- unknown owners, even though of small  
17 percentages --

18 MR. COLBY: Well, of course, the percentages --the  
19 interest would not be attributable under the multiple  
20 ownership rules any more. Today, unless somebody has five  
21 percent or more -- because it is not attributable unless  
22 they are an officer, a director, or violate the bright line  
23 test. At one time, when we filled out ownership reports and  
24 attributed interest, anybody who had even a share of stock,  
25 it was attributed but the law is no longer --

1 THE COURT: Well I hear you, and that is all well  
2 and good. But those very calls that are made when you have  
3 a list of stockholders, and you know who owns what.

4 MR. COLBY: Correct.

5 THE COURT: The problem here is you don't. Every  
6 time you get into an unknown in these kinds of situations,  
7 it just makes one a little bit concerned, that's all.  
8 Unknowns are not good. Okay. Are we all set on this one?  
9 Anything more?

10 MR. COLBY: Uh --

11 THE COURT: On Family Broadcasting, you know the  
12 date is going to be October 15th.

13 MR. COLBY: Right.

14 THE COURT: And you know that within a week or ten  
15 days, you are going to have to get together and try to  
16 figure out how this case is going to be put together, as  
17 best you can, so that you get some idea of the scope of the  
18 discovery that you are going to need, and how you might want  
19 to go about doing it. Then thirty days from now, I will ask  
20 for a written status report; and, after that, I guess we  
21 will all be on our own.

22 MR. SHOOK: The only thing that I would add to  
23 that, given that the information that the Bureau seeks,  
24 relative to the identities, and the number -- the percentage  
25 of ownership that these unknown persons have, I would say

1 that -- I would recognize that Mr. Colby has given me what  
2 he has available to him right now.

3 My thought on that is that is not entirely  
4 satisfactory. Not because I question his effort, but simply  
5 the result. In the event that we can not get from him, say  
6 within the next thirty days, the identities of the  
7 individuals, and what it is that they own, it is  
8 conceivable, at that point, that we would move to have an  
9 issue added relative to that information.

10 THE COURT: Well, I think I would wait and see  
11 what it looked like on the paper but that does not seem  
12 unreasonable to me.

13 MR. COLBY: It is possible that I may have to  
14 respond to that by filing an additional 316 to assign the  
15 license contingent upon a transfer of control, to assign the  
16 license to a new corporation. But, if I did that, I would  
17 have to, in some way, or another, or I would want to in some  
18 way or another, make a provision for anybody who has a  
19 share, to participate in a new company, if they come forward  
20 and wanted to.

21 But I don't see how it would be right to cut off a  
22 shareholder, no matter how small his percentage may be, or  
23 how little he may have paid for it, or how much. I don't  
24 think it is right to simply walk away from these people.

25 MR. SHOOK: Well, I think that one of the points

1 that this raises, though, is that it may be difficult, if  
2 not impossible, to take at face value that Luz and Asta  
3 owned 93 percent when it is impossible to determine: who  
4 these other people are, when it is they bought, how much  
5 they paid for it, and what they got.

6 MR. COLBY: You are persuading me that what I  
7 ought to do is file a 316.

8 THE COURT: Well, all right. It is a concern.  
9 There is no question about it. It is a concern. The  
10 designation order also -- it all but invites the Bureau to  
11 review these applications, these pending applications on the  
12 assignment. And, if appropriate, to add an issue -- that  
13 really does not get into any specifics other than maybe  
14 something like this. I am not sure what they have in mind  
15 but --

16 MR. SHOOK: Well this is the only thing that has  
17 come to mind. The technical aspects of it.

18 THE COURT: Yes.

19 MR. SHOOK: The financial aspects have been  
20 addressed, at least to the extent of that document that was  
21 given to us signed by Mr. and Mrs. James relative to  
22 whatever it is they may own. The real problem at this point  
23 is how many unknown owners, or family, do we have out there?  
24 What is it that they actually own? And whether or not that  
25 might have some impact on the accuracy of the representation

1 in the application that 93 percent of the shares of family  
2 are, in fact, being transferred from father and mother to  
3 the four children? That seems to me to be largely a guess  
4 right now.

5 THE COURT: Well, I hear you. I hear you loud and  
6 clear. If for no other -- without even going that far with  
7 it, just the fact that there is an ownership; that there is  
8 a question of ownership that cannot be resolved at its most  
9 fundamental level, gives me some concern. I mean it gives --

10 MR. COLBY: Your Honor, I will file a 316.

11 THE COURT: Well, I do not know if that will be  
12 the answer. But whatever you do, you do. I am taking this  
13 hearing designation order very seriously in the context in  
14 which it was given. They seem to be -- the Commission seems  
15 to be not inviting new issues, but be going overboard to be  
16 sure that all possible issues are raised in this case, and  
17 are fully litigated.

18 Now, it is going to reach a point, of course, when  
19 that is going to be -- you are -- everybody is subject to  
20 the rule of unreasonable delay in terms of doing this. But,  
21 again, that would be one of the things that I would expect  
22 the Bureau to do, to take a hard look at what the Commission  
23 is saying. To take a hard look. Maybe you already have and  
24 to come forward, within a reasonable period of time, with a  
25 petition for new issues if that is the case. This may be --

1 I mean aside from the one that you have flagged. I see the  
2 one that you flagged.

3 MR. COLBY: Your Honor --

4 (Multiple voices)

5 MR. COLBY: -- is not the result of any prejudice  
6 or prejudgment on your part.

7 THE COURT: No.

8 MR. COLBY: Because, it seems to me, that to  
9 invite new issues, and to invite an inspection may be  
10 matters beyond the scope of a reasonable judicial  
11 temperament.

12 THE COURT: Well, all right. I am trying to be  
13 very cautious in this. I am trying to be honest with you,  
14 is what I am trying to do. I want to be sure -- Listen, the  
15 reason that the summary decision did not work was because  
16 the Commission found that it was not a complete enough  
17 record.

18 I want to be sure that there is a complete record  
19 on this. I do not want to go -- On either side, I do not  
20 want to inadvertently make that kind of an error. So I am  
21 simply trying to be sure that everything is here that I need  
22 to decide the case. I have no interest in seeing an issue  
23 added, none whatsoever. That is all I have to say.

24 MR. COLBY: Did you wish also to discuss the  
25 Mitnick case today.

1 THE COURT: We are going to do that. Why don't I  
2 just go off the record and go back on again. But is there  
3 anything else that anybody else has to --

4 MR. COLBY: I need to get started back because I  
5 have to file a petition in this television matter, and I  
6 need to get it signed before --

7 THE COURT: Well, let me just ask you the  
8 question, does anybody else have anything to offer on the  
9 Family Broadcasting matter?

10 MR. SHOOK: We do not.

11 THE COURT: Are you all set, Mr. Colby.

12 MR. COLBY: Yes.

13 THE COURT: Okay. Let us go off the record for  
14 just a minute.

15 (Whereupon, at 2:52 p.m., the hearing in the  
16 above-entitled matter was adjourned).

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

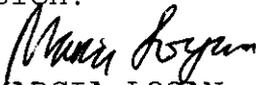
25 //

REPORTER'S CERTIFICATE

FCC DOCKET NO.: EB 01-39  
CASE TITLE: FAMILY BROADCASTING, INC.  
HEARING DATE: APRIL 23, 2002  
LOCATION: WASHINGTON, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

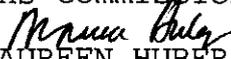
Date: 4/23/02

  
MARCIA LOGAN  
Official Reporter  
Heritage Reporting Corporation  
1220 L Street, N.W., Suite 600  
Washington, D.C. 20005-4018

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 4/23/02

  
MAUREEN HUBER  
Official Transcriber  
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 4/23/02

  
Carlos Gamez  
Official Proofreader  
Heritage Reporting Corporation